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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 123 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BANASKANTHA DIST.CO.OP.MILK PRODUCER'S UNION LTD.
Versus
COMMISSIONER OF INCOME-TAX

Appearance:
1. INCOME TAX REFERENCE No. 123 of 1993
MR JP SHAH for Petitioner No. 1
MR AKIL QURESHI FOR MR MANISH R BHATT
for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The following three questions are referred to this Court at the instance of the assessee :

1 "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in interpreting of application of Section 35C of the Income-tax Act,1961?"

2 "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the entire expenditure of Rs.16,29,725/- was not eligible for weighted deduction u/s.35C of the Income-tax Act?"

3 "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that only 10% of the expenses incurred on dissemination of information of demonstration of modern technique or method of agricultural, animal husbandary or dairy or poultry farming or advice on such technique or method is eligible for deduction u/s.35C of the Act ?"

2 We have heard Mr.J.P.Shah, learned Counsel for the applicant-assessee and Mr.Akil Qureshi, learned Counsel for the revenue.

3 It is common ground between the parties that all the three questions referred to us stand concluded by the decision of this Court in the case of Kaira District Co.op.Milk Producers Union Ltd. vs. CIT in Income Tax Reference No.32 of 1987 decided on 2/7/2001. For the reasons stated in the aforesaid decision of this Court we answer all the all the questions referred to us in the negative i.e. in favour of the assessee and against the revenue.

4 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt